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VIA FEDERAL EXPRESS DELIVERY

February 12, 2010

Craig Whitenack, Civil Investigator
United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

**Re: Yosemite Creek Superfund Site, San Francisco, CA
Response to 104(e) Information Request**

Dear Mr. Whitenack:

The following is in response to the 104(e) Request for Information ("RFI") of the United States Environmental Protection Agency ("EPA") directed to Ashland Inc. ("Ashland") regarding the Yosemite Creek Superfund site (the "Site"). Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Ashland submits the following in response to the RFI in accordance with the February 15, 2010 due date that EPA established for Ashland.

In responding to the RFI, Ashland has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, while we understand the basis of the purported connection between Ashland and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also

seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA; thus Ashland has limited its review of documents and information to the COCs identified by EPA and activities with a nexus to the Site or the BAD site.

As you know, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and Ashland's operations in connection with it. DTSC's investigation included an information request to Ashland and the DTSC files include Ashland's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of Ashland's identification, review and retrieval of documents has been upon data that has not been previously provided to EPA, DTSC or any other governmental agency that is relevant to the Site.

GENERAL OBJECTIONS

Ashland asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Ashland asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, Ashland asks that any such document be returned to Ashland immediately and here states for the record that it is not thereby waiving any available privilege or protection as to any such document.
2. In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, Ashland asks that any such documents be returned to Ashland immediately so that Ashland may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Ashland objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Ashland's operations in connection with it. DTSC's investigation included an information request to Ashland and the DTSC files include Ashland's Response to DTSC's information request. EPA is already in possession

of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Ashland may produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that contain information responsive to the RFI.

4. Ashland objects to Instruction 4 to the extent it seeks to require Ashland, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Ashland is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.
5. Ashland objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Ashland to supplement these responses. Ashland will, of course, comply with any lawful future requests that are within EPA's authority.
6. Ashland objects to Instruction 6 in that it purports to require Ashland to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Ashland. EPA lacks the authority to require Ashland to seek information not in its possession, custody or control.
7. Ashland objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Ashland's possession, custody, or control. Ashland disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known by Ashland to exist" but not in Ashland's possession, custody, or control.
8. Ashland objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.
9. Ashland objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, current Ashland employees and any other natural persons are identified by name and corporate address. Ashland requests that any contacts with Ashland employees identified in these responses or the related documents be initiated through the undersigned.
10. Ashland objects to the definition of "you," "Respondent," and "your" in Definition 14 because the terms are overbroad and it is not possible for Ashland to answer questions on behalf of all the persons and entities identified therein. Notwithstanding this objection, and without waiving it, Ashland has undertaken a

diligent and good faith effort to locate and furnish documents and information in its possession, custody, and control that are responsive to the RFI.

11. Ashland objects to EPA's requests that Ashland provide EPA separately information that is contained in documents being furnished by Ashland in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.

RESPONSES TO EPA'S INFORMATION REQUEST

1. Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Ashland is a diversified business entity with global operations that date back before the 1920s, including various divisions, subsidiaries and affiliates, including various corporate mergers, acquisitions and corporate restructuring. Its operations over the years, and those of the entities that are or have been associated with Ashland, including a wide variety of products and services. Identifying each of Ashland's products since its inception is not possible. Ashland assumes that EPA is not interested in Ashland's business operations that are not connected with BAD. Accordingly, Ashland will limit its answer to the Ashland facility that transacted with BAD. For the identify and description of the Ashland facility with a nexus with BAD, see Ashland's response to Question No. 2.

2. Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:
 - a. ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.
 - b. are/were located in California (excluding locations where ONLY clerical/office work was performed);
 - c. are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were

an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland is providing EPA with certain information and documents related to Ashland's facility that conducted transactions with the BAD Site.

In 1980, 1984, 1985 & 1986, Ashland's facility located at 8600 Enterprise Drive, Newark, California 94560 (the "Newark Facility") sent drums to the BAD Site for reconditioning. From approximately 1973 until 2000, Ashland operated this facility on a 10.9-acre site for the purpose of chemical blending, packaging and distribution; including the handling and storage of various chemical compounds. Bulk chemicals and solvents were received at the facility by boxcars, delivery vans, and tank trucks. Plant products were distributed to customers in bulk or packaged form via tank trucks, 55-gallon drums, and/or small containers. On-site generated wastes that were stored and treated consisted of corrosives, solvents, and contaminated groundwater.

The primary features of the Newark Facility included an office building, chemical product warehouse, aboveground storage tank farm, truck racks and loading bays, railroad spur, wastewater treatment system, groundwater treatment system, storm water runoff collection sump, aboveground storage tank for storm water runoff, and drum storage area.

Four divisions previously operated at the Newark Facility and included the following:

- ◆ The Distribution Services Organization Division ("DSO") managed chemical storage, blend tanks, drum filling, bulk load rack operations, and warehouse operations. The DSO Division relocated their operation in 1995;
- ◆ The Industrial Chemicals and Solvents Division ("IC&S") managed chemical storage, blending, repackaging, and distribution of various organic chemicals. IC&S operated mixing tanks, the truck loading racks, and drum fill stations in the warehouse. IC&S relocated their operations in 1995;

- ◆ The Electronic and Laboratory Products Division ("E&LP") managed blending and repackaging operations for the distribution of inorganic chemicals and production of ammonium fluoride. The distribution facilities included a truck loading rack, railcar unloading areas, truck dockyard, tank farm, warehouse, truck unloading pad, and drum storage area. E&LP continued to operate at the facility until 2000.
- ◆ The Electronic Chemicals Division ("ECD") managed chemical storage, blending, drum filling, laboratory, and warehouse operations. Products were mostly corrosive materials (nitric, sulfuric, hydrochloric, hydrofluoric, phosphoric, and acetic acids, ammonium hydroxide, sodium hydroxide, and potassium, hydroxide, a few solvents such as isopropanol). The chemicals were stored primarily in 55-gallon plastic drums or in 1 gallon plastic bottles (that were placed in cardboard boxes holding 4 bottles each). Other forms of storage containers were totes, MCVs, 5-gallon plastic drums, 15-gallon plastic drums, and 100-ml to 10000-ml laboratory sample bottles. ECD closed out their operations in January 2000.

After a reasonable search, Ashland has located transactional documents between BAD and Ashland's Newark Facility. These documents are attached as ASH00001 to ASH00635.

3. Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:
 - a. the date such operations commenced and concluded; and
 - b. the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Ashland objects to the request in (b.) that it describe "types of work performed at each location over time" Without identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, please see Ashland's response to Question No. 2.

4. For each Facility, describe the types of records regarding the storage, production, purchasing and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Ashland to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents. Ashland further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Ashland has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that as of this date, after a reasonable search, that we have unable to locate information responsive to Question No. 4 related to the Newark Facility that conducted transactions with the BAD site.

5. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Ashland's Newark California facility and the BAD Site, Request No. 5 purports to seek information relating to Ashland's Facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that as of this date, after a reasonable search, we have been unable to locate information responsive to Question No. 4 related to the Newark Facility that conducted transactions with the BAD site.

6. If the answer to Question 5 is yes, each COC was produced purchased, used, or stored at each Facility.

RESPONSE:

See Ashland's response to Question No.5.

7. If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchase, used, or stored at each Facility.

RESPONSE:

See Ashland response to Question No. 5.

8. If the answer to Question 5 is yes, identify the average annual quantity each COC produced, purchased, used, or stored at each Facility.

RESPONSE:

See Ashland response to Question No. 5.

9. If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.

RESPONSE:

See Ashland response to Question No. 5.

10. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at Ashland's Facilities and the BAD Site, Request No. 10 purports to seek information relating to Ashland's Facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that as of this date, after a reasonable search, that we have not been able to locate documents responsive to Question No. 10 related to the Ashland Newark Facility. However, based on discussions with former employees who worked at the Ashland Newark Facility, we believe that small quantities of hydraulic fluids would have been used in equipment on site. There were no transformers on the Newark Facility property. Ashland has no reason to believe that any of these materials would have been in drums reconditioned at BAD.

11. If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.

RESPONSE:

See Ashland response to Question No. 10.

12. If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.

RESPONSE:

See Ashland response to Question No. 10.

13. If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.

RESPONSE:

See Ashland response to Question No. 10.

14. If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.

RESPONSE:

See Ashland response to Question No. 10.

15. Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:

- a. Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;
- b. Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks, and other documents pertaining to the procurement of the SOI;
- c. State whether the SOIs were delivered to the Facility in bulk or in closed containers and describe any changes in the method of delivery over time;
- d. Describe how, where, when and by whom containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Ashland's Facilities that is not relevant to contamination at the Site.

See Ashland's responses to Question Nos. 5 and 10.

16. For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, tote, etc.);
- b. whether the containers were new or used; and
- c. If the containers were used, a description of the prior use of the container.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Ashland's Facilities that is not relevant to contamination at the Site.

See Ashland's response to Question No. 5 and 10.

17. For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Ashland further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 purports to seek information that Ashland believes does not exist.

Ashland further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Ashland has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

18. For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identify all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, See Ashland's response to Question Nos. 5 and 10.

19. For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland] objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Ashland further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 purports to seek information that does not exist. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

20. Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to Ashland's Facilities that is not relevant to contamination at the Site. Ashland further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that as of this date, after a reasonable search, Ashland believes that during the office manager or district manager would have had procurement responsibilities.

21. Describe how each type of waste containing any SOI was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:
- a. the type of container in which each type of waste was placed/stored;
 - b. how frequently each type of waste was removed from the Facility;
- Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

22. Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:
- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
 - b. the colors of the containers;
 - c. any distinctive stripes or other markings on those containers;
 - d. any labels or writing on those containers (including the content of those labels);
 - e. whether those containers were new or used; and
if those containers were used, a description of the prior use of the containers;

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Ashland further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Ashland] further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Ashland has limited its review of documents and information to the COCs identified by EPA. Additionally, Ashland objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

23. For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its

disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. state the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc,

mercury, DDT, chlordane, dieldrin, and PCBs. Ashland further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Ashland has limited its review of documents and information to the COCs identified by EPA. Additionally, Ashland objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

24. Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for Ashland's environmental matters at all of Ashland's Facilities, including those that have no nexus to the BAD Site, is not possible.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that current responsibility for Ashland's environmental matters rests with Ashland Corporate Environmental, Health & Safety Department in Dublin, Ohio. The Vice President of Ashland's Environmental Health & Safety Department is Karen Murphy. Under her direction, are a number of individuals who are responsible for maintaining environmental compliance and safety at Ashland's facilities. Additionally, as of this date, after a reasonable search, Ashland has not

been able to locate information responsive to Question No. 24 regarding those personnel who may have had responsibility for Ashland's environmental matters at the Newark Facility plant level. However, in the 1980s which is the period of time that the Newark Facility transacted with the BAD Site, Scotty Patrick, former Administrative Vice President for Petrochemicals & Technical, had corporate level responsibility for environmental matters.

25. Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Ashland has ever acquired such drums or containers is not possible.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that as of this date, after a reasonable search, that it does have information responsive to Question No. 25 related to the Ashland Newark Facility.

26. Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Ashland further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Ashland has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, see Ashland's response to Question Nos. 5 and 10.

27. Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.

where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. Moreover, identifying all such removal and remedial actions is not feasible due to long history of existence/operations, the number of Ashland's locations, etc. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Ashland further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Ashland states that groundwater investigations and remediation have been undertaken at the Newark Facility since mid-1981 under regulatory authority of the California Environmental Protection Agency – San Francisco Bay Regional Water Quality Control Board (RWQCB) and the Newark Fire Department (NFD). Thirty-eight monitoring wells and four groundwater extraction wells have been installed since that time. Ashland previously operated a Shallow Zone groundwater pump-and-treatment system to laterally contain VOC plume migration within the Facility and remove volatile organic compounds (VOCs) from the groundwater. Ashland also removed all product storage facilities from the Property and have undertaken soil removal actions at a former tank farm area to address VOC-impacted soil. At this time groundwater monitoring is the only on-site activity. Chemical Waste Management, 35251 Old Skyline Blvd. Kettleman Hills, CA was the disposal location for the excavated soils. It has been determined that the COCs associated with the work performed and found at the Ashland Newark Facility include chlorinated solvents and aromatic hydrocarbons, and are not the same SOI at the Yosemite site.

28. Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DTSC conducted an extensive investigation of the BAD Site and Ashland's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Ashland understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

29. Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used or stored at the Facilities.

RESPONSE:

In addition to the General Objections set forth above, Ashland objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Ashland has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Ashland understands that EPA is already in possession of DTSC's files regarding the BAD Site. Ashland is under no further obligation to identify time periods to which these documents do not pertain.

30. Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document if responsive.

RESPONSE:

Ashland objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Ashland has limited its review of documents and information to the COCs identified by EPA. Ashland further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and Ashland's operations in connection with it. DTSC's investigation included an Information request to Ashland and the DTSC files include Ashland's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Craig Whitenack, Civil Investigator
United States Environmental Protection Agency
February 12, 2010

Notwithstanding the foregoing, and without any waiver of its objections, after a reasonable search, the responsive documents which consist of documents relating to transactions between BAD and Ashland's Newark Facility are attached as ASH00001 – ASH00635.

In replying to this Request for Information, Ashland has not, and shall not be deemed to have admitted any liability or responsibility with respect to the Site, the subject matter of the Request or any other matter. If following your review, EPA has any questions concerning any response herein, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. L. Williams", followed by a horizontal line.

Richmond L. Williams
Chief Counsel, Environmental Litigation

RLW/mad

Attachments